

## LEGISLATIVE BILL 1140

Approved by the Governor April 10, 2012

Introduced by Mello, 5.

FOR AN ACT relating to the Professional Landscape Architects Act; to amend sections 81-8,184, 81-8,185, 81-8,186, 81-8,189, 81-8,190, 81-8,191.01, 81-8,192, 81-8,193, 81-8,195, 81-8,196, 81-8,197, 81-8,198, 81-8,199, 81-8,200, 81-8,200.01, 81-8,200.02, 81-8,201, 81-8,202, 81-8,203, 81-8,204, 81-8,205, 81-8,206, and 81-8,208, Reissue Revised Statutes of Nebraska, and section 81-8,194, Revised Statutes Cumulative Supplement, 2010; to eliminate registration of professional landscape architects; to license professional landscape architects; to change provisions relating to the State Board of Landscape Architects and licensure requirements and examinations; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-8,208, Reissue Revised Statutes of Nebraska, is amended to read:

~~81-8,208~~ Sections 81-8,184 to ~~81-8,208~~ 81-8,206 and section 1 of this act shall be known and may be cited as the Professional Landscape Architects Act.

Sec. 2. Section 81-8,184, Reissue Revised Statutes of Nebraska, is amended to read:

~~81-8,184~~ As used in sections 81-8,184 to 81-8,208, For purposes of the Professional Landscape Architects Act, unless the context otherwise requires:

(1) Professional landscape architect ~~shall mean~~ means a person, who, by reason of his or her knowledge acquired by professional education or practical experience, or both, is qualified to engage in the practice of professional landscape architecture as provided in ~~sections 81-8,184 to 81-8,208, the act;~~

(2) ~~The practice~~ Practice of professional landscape architecture ~~shall mean~~ means the performance of professional services such as consultations, investigations, reconnaissance, research, planning, design, or responsible supervision in connection with projects involving the arranging of land and the elements thereon for public and private use and enjoyment, including the alignment of roadways and the location of buildings, service areas, parking areas, walkways, steps, ramps, pools, and other structures, and the grading of the land, surface and subsoil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape and aesthetic values, in accordance with accepted professional standards of public health, welfare, and safety. ~~This practice shall include Practice of professional landscape architecture includes~~ the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined ~~herein~~ in this subdivision but ~~shall~~ does not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, ~~or~~ the design of public streets and highways, utilities, storm and sanitary sewers, and sewage treatment facilities, ~~such as which~~ are ordinarily included in the practice of engineering or architecture, or ~~and shall not include~~ the making of land surveys or final land plats for official approval or recording. Nothing contained in ~~sections 81-8,184 to 81-8,208~~ the act shall preclude a duly licensed professional landscape architect from performing any of the services ~~described in the first sentence of defined as practice of professional landscape architecture in this subdivision~~ in connection with the settings, approaches, or environment for buildings, structures, or facilities. Nothing contained in ~~sections 81-8,184 to 81-8,208~~ the act shall be construed as authorizing a professional landscape architect to engage in the practice of architecture, engineering, or land surveying. ~~Nothing~~ Provided, that nothing in ~~sections 81-8,184 to 81-8,208~~ the act shall prohibit any ~~persons, person, firm, or corporation, or their officers, agents, or employees,~~ from preparing planting plans for plant materials in connection with the sale of nursery stock, plants, trees, shrubs, flowers, sod, or other plant material, outdoor decorative ornaments, seed, fertilizer, chemicals, gardening tools and equipment, and related items of merchandise or the propagation, planting, or growth of any indoor or outdoor plants; and

(3) Board ~~shall mean~~ means the State Board of Landscape Architects created by the ~~provisions of sections 81-8,184 to 81-8,208, act.~~

Sec. 3. Section 81-8,185, Reissue Revised Statutes of Nebraska, is

amended to read:

81-8,185 (1) No person shall engage in the practice of professional landscape architecture or use or advertise any sign, title, or description tending to imply or designate that such a person is a professional landscape architect unless he or she is registered licensed as such as provided in sections 81-8,184 to 81-8,208. the Professional Landscape Architects Act. Every holder of a registration certificate licensee shall display it his or her certificate of licensure in a conspicuous place at his or her place of business.

(2) Any person holding a certificate of registration under the act as of the effective date of this act shall be deemed to be duly licensed under the act until the expiration of such certificate.

Sec. 4. Section 81-8,186, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,186 There is hereby created a State Board of Landscape Architects consisting of six members who shall be appointed by the Governor. Five members of the board shall be professional landscape architects and one member shall be a layperson of the age of legal majority, ~~who shall represent consumer viewpoints but shall not judge professional competency.~~ All members shall have been residents of this state for at least one year immediately preceding their appointments.

Sec. 5. Section 81-8,189, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,189 Members of the board shall serve without compensation except that they shall ~~receive the~~ be reimbursed for their actual and necessary travel and incidental expenses incurred in the discharge of their duties prescribed in sections 81-8,184 to 81-8,208 pursuant to the Professional Landscape Architects Act as provided in sections 81-1174 to 81-1177. for state employees.

Sec. 6. Section 81-8,190, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,190 The board shall elect annually from its members a ~~chairman chairperson and a vice-chairman.~~ vice-chairperson. The board shall meet at least once a year at a time and place fixed by the board. Three members shall constitute a quorum. The board ~~shall have power to~~ may employ such technical and clerical assistants and incur such expense as may be necessary to properly carry out the provisions of sections 81-8,184 to 81-8,208. Professional Landscape Architects Act.

Sec. 7. Section 81-8,191.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,191.01 The State Board of Landscape Architects shall have the ~~power to~~ board may adopt and promulgate all bylaws and rules and regulations, ~~not inconsistent with law,~~ which are needed in performing its duties. Such rules and regulations shall include, but are not be limited to, a definition of conflict of interest for board members and the appropriate procedure to follow when a conflict arises. The rules and regulations or a code of professional conduct developed by the board shall also include definitions of or a list of specific practices which constitute fraud, deceit, gross negligence, incompetence, or misconduct and the punishments for such practices which shall be used as the basis to place a professional landscape architect on probation or revoke or suspend a ~~registration~~ license pursuant to section 81-8,202.

Sec. 8. Section 81-8,192, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,192 The board shall keep on file a record of all certificates of ~~registration~~ licensure granted and shall make annual revisions of such record as may be necessary. On or before January 31 of each year, the board shall file with the Secretary of State a complete list of those ~~registered licensed~~ under the provisions of sections 81-8,184 to 81-8,208 Professional Landscape Architects Act with their addresses and the dates of the ~~certificate of registration.~~ The list shall be printed and a copy mailed annually to every professional landscape architect registered under the provisions of sections 81-8,184 to 81-8,208 and practicing in Nebraska. licensure.

Sec. 9. Section 81-8,193, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,193 The board shall adopt and have an official seal which shall be affixed to all certificates of ~~registration~~ licensure granted and may make ~~all bylaws and~~ adopt and promulgate rules, ~~not inconsistent with law,~~ and regulations necessary for the proper performance of its such duty.

Sec. 10. Section 81-8,194, Revised Statutes Cumulative Supplement, 2010, is amended to read:

81-8,194 (1) The board shall establish fees of not less than one

hundred nor more than three hundred dollars for applications for ~~registration,~~ licensure, ~~examinations,~~ certificates of registration, licensure, ~~reciprocal registrations,~~ licenses, and renewals based on the administration costs incurred by the board. The board shall collect, and account for, and remit such fees and pay the same into the state treasury and which, by to the State Treasurer, shall be credited for credit to the State Board of Landscape Architects Cash Fund which is hereby created.

(2) Transfers may be made from the State Board of Landscape Architects Cash Fund to the General Fund at the direction of the Legislature. Any money in the State Board of Landscape Architects Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 11. Section 81-8,195, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,195 Applications for ~~registration~~ licensure shall be on forms prescribed and furnished by the board, and shall contain statements made under oath, showing the applicant's education and a detailed summary of his or her technical work. Applications for ~~registration~~ licensure shall be accompanied by an application fee in an amount determined by the board.

Sec. 12. Section 81-8,196, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,196 Each applicant for ~~registration~~ licensure as a professional landscape architect shall complete an application which includes his or her social security number and shall have that includes the following requirements:

(1) Graduation from a course of study in landscape architecture of four years or more in a school or college satisfactory to the board. In addition, the applicant shall also submit a specific record of four years or more of practical experience in landscape architecture which is of a grade and character satisfactory to the board. In lieu of graduation from a four-year landscape architecture course in school or college, and the additional requirement for practical experience, there may be substituted evidence of at least eight years of practical experience which in the opinion of the board has prepared the applicant for examination and registration;

(1) Proof that the applicant has met the eligibility standards set by the board in rules and regulations adopted and promulgated by the board in consultation with the Council of Landscape Architectural Registration Boards;

(2) Successful passing passage of a written, oral, or written and oral electronic examination in landscape architecture which is designed to determine the proficiency and qualifications to engage in the practice of professional landscape architecture; and - No applicant shall be entitled to take this examination until the applicant's education, training or experience, or both training and experience, have met the requirements of the board;

(3) Be at least twenty-one years of age; and

(4) Be (3) That the applicant is of good character.

Sec. 13. Section 81-8,197, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,197 Examinations shall be given at ~~stated or called meetings~~ of administered by the board or the Council of Landscape Architectural Registration Boards at times to be set by the board in consultation with the council. The board shall adopt and publish the rules and regulations for the scope of the examinations and methods of procedure. The board shall file a report after the close of each examination showing the action of the board upon each application and each applicant shall be notified of the result of his or her examination. An applicant who fails an examination may apply for one reexamination at the next examination conducted by the board without payment of an additional fee. Applications for reexamination after a period of one year or subsequent reexaminations may be granted upon payment of a fee in an amount determined by the board.

Sec. 14. Section 81-8,198, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,198 Each ~~registrant~~ licensee shall provide himself or herself with a suitable seal with a uniform inscription thereon formulated by the board with which he or she shall stamp all plans, specifications, and reports prepared by him or her. The following shall be stated on the seal: State of Nebraska, the licensee's name, the license number, and Professional Landscape Architect. A certificate of registration as provided for in sections 81-8,184 to 81-8,208 license shall be presumptive evidence that the person named therein is legally ~~registered.~~ licensed.

Sec. 15. Section 81-8,199, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,199 The board shall issue a certificate of ~~registration~~ as a

~~professional landscape architect licensure~~ to each successful applicant upon payment of the annual fee. Each certificate shall be signed by two members of the board under the seal of the board. ~~The certificate, which shall authorize the applicant to practice professional landscape architecture, as defined in sections 81-8,184 to 81-8,208.~~

Sec. 16. Section 81-8,200, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,200 Certificates of ~~registration~~ licensure shall expire on the last day of December following their issuance or renewal and shall become invalid on that date unless renewed before the expiration date with the payment of a fee in an amount the board shall determine. The board shall notify every ~~person registered under the provisions of sections 81-8,184 to 81-8,208~~ licensee of the expiration date of his or her certificate and the amount of the annual renewal fee at least one month in advance. The fee to be paid for the renewal of a certificate after December 31 shall be increased by ten percent for each month or fraction of a month such payment is delayed, ~~except that, the maximum fee for a delayed renewal shall not exceed twice the amount of the original renewal fee and no renewals shall be made after a lapse of one year from after the original expiration date thereof.~~ Renewal fees shall not be required while the professional landscape architect is on active duty with the armed forces of the United States. Application for renewal of a lapsed ~~registration license~~ shall be in the same manner as provided for an original application pursuant to section 81-8,196.

Sec. 17. Section 81-8,200.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,200.01 (1) ~~Beginning in 1986, as~~ As a condition for renewal of a certificate of ~~registration~~ licensure issued pursuant to ~~sections 81-8,184 to 81-8,208,~~ the Professional Landscape Architects Act, a ~~certificate holder~~ licensee shall be required to successfully complete fifteen hours of professional development within the preceding calendar year.

(2) The ~~State Board of Landscape Architects~~ board shall not renew the certificate of ~~registration~~ licensure of any ~~certificate holder~~ licensee who has failed to complete the professional development requirements pursuant to subsection (1) of this section, unless he or she can show good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown, the board shall permit the ~~registered landscape architect~~ licensee to make up all outstanding required hours of professional development.

Sec. 18. Section 81-8,200.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,200.02 The ~~State Board of Landscape Architects~~ board shall adopt and promulgate ~~such administrative procedures and rules and regulations as are necessary for the effective delivery and certification~~ licensure of all programs of professional development required in section 81-8,200.01.

Sec. 19. Section 81-8,201, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,201 The board may ~~certify for registration~~ license without examination any applicant who is legally licensed or registered as a professional landscape architect in any other state, territory, or country whose requirements for licensure or registration are at least substantially equivalent to or higher than ~~the requirements of the provisions of sections 81-8,184 to 81-8,208~~ the Professional Landscape Architects Act and which extends the same privileges of reciprocity to professional landscape architects registered licensed in this state and who has actively practiced for at least one of the three years immediately preceding the application for ~~registration~~ licensure without examination. The application for reciprocal ~~registration~~ licensure shall be accompanied by a fee in an amount the board shall determine.

Sec. 20. Section 81-8,202, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,202 The board shall have the power ~~may~~ by a four-fifths vote of the entire board ~~to place a registered~~ licensed professional landscape architect on probation or to revoke or suspend the certificate license of any professional landscape architect ~~registered~~ licensed under the Professional Landscape Architects Act whom it finds guilty of (1) deceit in obtaining a ~~certificate,~~ license, (2) fraud, (3) gross negligence, (4) incompetency, or (5) misconduct in the practice of professional landscape architecture. Such person shall have the right to appeal the revocation or suspension of his or her ~~certificate of registration,~~ license, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 21. Section 81-8,203, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,203 Warrants for the payment of expenses and ~~compensations~~ compensation provided by ~~sections 81-8,184 to 81-8,208~~ the Professional Landscape Architects Act shall be issued by the Director of Administrative Services upon presentation of vouchers drawn by the ~~chairman, chairperson,~~ but at no time shall the total amount of warrants exceed the total amount of fees collected as provided by the ~~provisions of sections 81-8,184 to 81-8,208.~~ act.

Sec. 22. Section 81-8,204, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,204 No person shall practice as a professional landscape architect or in any manner designate himself or herself as a professional landscape architect unless he or she has been issued a certificate of ~~registration~~ licensure pursuant to ~~sections 81-8,184 to 81-8,208.~~ the Professional Landscape Architects Act. If such person does practice or attempt to practice under the designation of professional landscape architect, he or she may be restrained under permanent injunction.

Sec. 23. Section 81-8,205, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,205 Any person who violates ~~such a~~ permanent injunction obtained pursuant to section 81-8,204, presents or attempts to file as his or her own the certificate of ~~registration~~ licensure of another, ~~who shall give~~ gives false or forged evidence of any kind to the board in obtaining a certificate of ~~registration,~~ licensure, indorses any document which he or she did not actually prepare or supervise the preparation thereof, ~~who shall~~ falsely impersonate impersonates another practitioner of like or different name, or ~~who shall use~~ uses a revoked certificate of ~~registration~~ licensure shall be deemed guilty of a Class III misdemeanor.

Sec. 24. Section 81-8,206, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,206 The provisions of sections 81-8,184 to 81-8,208 Professional Landscape Architects Act shall not apply to:

(1) Any person who is an employee of a ~~registered~~ licensed professional landscape architect and who performs landscape architectural work under the direction and supervision of a ~~registered~~ licensed professional landscape architect, but such work ~~shall~~ does not include responsible change of design or administration of construction contracts;

(2) Any full-time employee who performs landscape architectural work for his or her employer when all such work is in connection with a facility owned or operated by the employer and when such work does not endanger the public welfare, health, and safety, and when the service is not offered to the public;

(3) Any architect or professional engineer, but such architect or engineer may not use the title landscape architect or professional landscape architect unless he or she is ~~registered~~ licensed pursuant to ~~sections 81-8,184 to 81-8,208;~~ the act; or

(4) Any person who seeks advice or help of any other person in planning, planting, or maintaining the planting or conservation work on any property he or she owns or controls or who does such things himself or herself.

Sec. 25. Original sections 81-8,184, 81-8,185, 81-8,186, 81-8,189, 81-8,190, 81-8,191.01, 81-8,192, 81-8,193, 81-8,195, 81-8,196, 81-8,197, 81-8,198, 81-8,199, 81-8,200, 81-8,200.01, 81-8,200.02, 81-8,201, 81-8,202, 81-8,203, 81-8,204, 81-8,205, 81-8,206, and 81-8,208, Reissue Revised Statutes of Nebraska, and section 81-8,194, Revised Statutes Cumulative Supplement, 2010, are repealed.